

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **CHAIRMAN DAVE LEWIS**, on April 14, 2003 at 9:05 A.M., in Room 102 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Dave Lewis, Chairman (R)  
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)  
Rep. Edith Clark, Vice Chairman (R)  
Rep. John Brueggeman (R)  
Rep. Tim Callahan (D)  
Rep. Stanley (Stan) Fisher (R)  
Rep. Dick Haines (R)  
Rep. Donald L. Hedges (R)  
Rep. Carol C. Juneau (D)  
Rep. Christine Kaufmann (D)  
Rep. John Musgrove (D)  
Rep. Jeff Pattison (R)  
Rep. Rick Ripley (R)  
Rep. John Sinrud (R)  
Rep. John Witt (R)

**Members Excused:** Rep. Eve Franklin (D)  
Rep. Joey Jayne (D)  
Rep. Dave Kasten (R)  
Rep. Monica Lindeen (D)

**Members Absent:** None.

**Staff Present:** Jon Moe, Legislative Branch  
Mary Lou Schmitz, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: None  
Executive Action: SB 218

**EXECUTIVE ACTION ON SB 218****Discussion:**

**CHAIRMAN LEWIS** referred to the new fiscal note, Exhibit 1 and asked **Matt Bugni, Office of Budget and Program Planning** to explain it.

**EXHIBIT (aph80a01)**

**Mr. Bugni** said the biggest difference between this fiscal note and the previous one is that this fiscal note only focuses on expenses transferred from Judiciary to the Department of Administration and the new costs created by SB 218. What it doesn't focus on, and sets aside, is total funding of District Courts which, regardless of this bill, there are issues.

**Karla Gray, Chief Justice, Montana Supreme Court**, said they still have substantial concerns whether the amount is \$600,000 or \$2.5 million. The judicial branch is still under-funded in the amount of \$1.8 million for bills they are obligated to pay this coming biennium. The state's obligation for indigent defense cost-coverage under this bill is being substantially broadened. Under state assumption, the state has taken upon itself to fund indigent defense in the district courts.

**Lisa Smith, Supreme Court**, said the people working on this bill in the budget office did reduce the FTE that they planned to take away from the Supreme Court, from 2.5 FTE down to 1. On the fiscal note, the public defender costs transferred to the Department of Administration, taken out of Judiciary and transferred over to the Department of Administration, are too high. They are higher than the amounts that have been funded in the executive Supreme Court budget. If this bill passes, 300,000 to \$500,000 too much will be taken from their budget. It would take the shortfall in HB2 of \$1.8 million and bump it up around \$2 million.

In response to a question from **REP. BUZZAS** concerning the \$1.8 million for bills, **Chief Justice Gray** said it is not for the remainder of the current fiscal year, it is for the coming biennium. There is no question that they are behind currently on making the payments for this fiscal year. The reason for it is because they are understaffed and they have had the needed staff added to HB 2, contingent on passage of another Senate bill yet to come over to the House. They have had the needed staff added so that for the coming biennium they are fully confident that they can process the claims in a timely manner.

**REP. FISHER** asked **Chief Justice Gray** for further explanation concerning the \$1.8 million. **Chief Justice Gray** said the \$1.8 million is what they have called all along their "wing and a prayer". They are relatively certain they can get through until supplemental time next session.

**CHAIRMAN LEWIS** said basically what this bill does right now is set up a separate entity in the Department of Administration to pay these public defender claims at a cost of roughly \$600,000 for the biennium. They still pay those claims out of the Supreme Court budget. **Ms. Smith** said they would remove the \$5.5 million out of the Supreme Court's budget. **CHAIRMAN LEWIS** said all they are gaining from this bill is a separate entity that the claims will be paid immediately. **Ms. Smith** said that is right. Where the Supreme Court is in disagreement is that there is not \$5.5 million in their budget to take. There is only about \$5.1 million.

**REP. HAINES** said it seems like they have come down to two issues:

- 1) The Supreme Court is saying they are \$1.8 million behind. This will increase it to about \$2.5 million.

- 2) The other issue is whether or not they deal with the appearance of impropriety of independent defenders' court that is now under the Department of Justice.

**REP. KAUFMANN** asked **Gordon Morris, Director, MACo**, to comment on the underlying purpose of the bill. **Mr. Morris** said this isn't about paying the bills in a timely fashion. This is about administrating a program by the state uniformly and consistently that the state is paying for right now. The bills will have to be paid whether this bill passes or not.

In answer to a question from **REP. SINRUD, Bill Kennedy, Yellowstone County Commissioner and First Vice President of MACo**, said, "As they have looked at the whole public defender system and the system that was assumed by the state last session, the public defender system was in that whole assumption process that came out last time. Because it was assumed they could take the whole system in at that time and work with it, they wanted to wait awhile. They are just looking for a unified system to try to offer services to the indigent programs across the state of Montana.

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.7}*

**REP. BUZZAS** asked **Beth Brenneman, Attorney, ACLU** for comments.

**Motion:** **REP. WITT** moved that SB 218 BE CONCURRED IN.

Substitute Motion/Vote: REP. HEDGES made a substitute motion that SB 218 BE TABLED. Motion carried 13-6 with REPS. BUZZAS, FRANKLIN, JAYNE, JUNEAU, KAUFMANN and MUSGROVE voting no on a roll call vote.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.8}*

**ADJOURNMENT**

Adjournment: 9:45 A.M.

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REP. DAVE LEWIS, Chairman

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MARY LOU SCHMITZ, Secretary

DL/MS

**EXHIBIT (aph80aad)**